

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i 96813

November 14, 2008

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

SUBJECT: Establishment of a Volunteer Kōkua Partnership Agreement for
Portions of Diamond Head State Monument, O'ahu

The Curator Program began in 1987 to encourage community involvement in the care and management of historic and cultural sites on State-owned properties. Over the years, the program has expanded to include natural resources in the parks, such as botanical gardens and wetlands. The curator responsibilities have also evolved to include interpretation, assistance with visitor services, and site restoration. There are currently nine (9) curator organizations statewide assisting with cultural sites in the parks and four (4) organizations assisting with natural resources in parks on Maui and O'ahu. In 2005, other community groups expressed interest in assisting with recreational facilities in the parks and a similar volunteer program, called the Kōkua Partnership Program, was developed.

The Diamond Head State Monument Foundation was established in 2005 for the purpose of preserving and protecting the natural condition of Diamond Head State Monument through educational, interpretive, and site improvement projects. The Foundation has already been conducting projects in the portion of the Monument under the jurisdiction of the Division of State Parks, such as the planting of *naupaka* on the exterior of the crater along Diamond Head Road, repair of the irrigation system in the area, and other landscaping improvements at Muriel Flanders Reststop. The Foundation has expressed a desire to be officially recognized as a Kōkua Partner to continue their efforts and develop new projects for other areas in the park. They have requested a 5-year term for this agreement to be able to show a long-term commitment to potential granting and funding sources.

Because State Parks, Civil Defense, and the Hawai'i National Guard have jurisdiction over various areas within the Monument, the Kōkua Partnership agreement is restricted to those areas under the jurisdiction of State Parks. This includes areas within the crater, such as the parking lot, interpretive shelter, landscaped trailhead, the trail to the summit, and the native Hawaiian garden at the site formerly occupied by the FAA building. The agreement also addresses areas on the exterior of the crater including the *makai* slope along Diamond Head Road and the eastern slope where the Peace Garden and park entry are located, as well as the proposed linear park.

ITEM E-4

RECOMMENDATION:

State Parks encourages community involvement and assistance with the care, management, and maintenance of the resources in the parks through the Curator and Kōkua Partnership programs. The Diamond Head State Monument Foundation has indicated a willingness to carry out their responsibilities as volunteers in the portions of the Monument under the jurisdiction of State Parks and to work closely with State Parks to insure that the guidelines established in the agreement are followed. State Parks recommends that the Board grant approval for DLNR to enter into a 5-year agreement with the Foundation to allow the Foundation to serve as a Kōkua Partner and carry out projects and improvements at Diamond Head State Monument as stipulated in the agreement.

Respectfully submitted,



DANIEL S. QUINN
State Parks Administrator

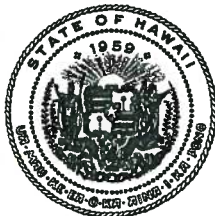
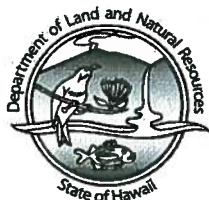
APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson

Attachment: Draft Kōkua Partnership Agreement

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

DIVISION OF STATE PARKS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 5, 2008

Mr. Clark Hatch, President
Diamond Head State Monument Foundation
3118 Waialae Avenue, Suite 101
Honolulu, Hawai'i 96816

Dear Mr. Hatch:

SUBJECT: Kōkua Partnership Agreement for Portions of Diamond Head State Monument

Attached is a revised agreement for the Diamond Head State Monument Foundation to serve as a Kōkua Partner for the portions of Diamond Head State Monument under the jurisdiction of the Division of State Parks. Based on discussions with you in August and your prior review of a draft agreement, we have revised the agreement to conform with the standard Kōkua Partnership agreement. This agreement avoids the use of the term curator and references the Foundation as a Kōkua Partner. However, the responsibilities of the Foundation have been retained as previously agreed upon. Please conduct a final review to insure that all the terms are as understood and agreed to.

We would like to seek approval of the Board of Land and Natural Resources to enter into this agreement at the Board's next meeting to be held on November 14, 2008. Once we obtain Board approval, we can move forward with the execution of the agreement.

State Parks would like to acknowledge the work and time that the Foundation has put into the development of this agreement. We hope that it accurately reflects your goals for the next 5 years. We would also like to express our "mahalo" for all the work the Foundation has already initiated at the park and we look forward to working with you on a continuation of these projects, as well as the development of new projects.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Daniel S. Quinn".

DANIEL S. QUINN
State Parks Administrator

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF STATE PARKS

KOKUA PARTNERSHIP AGREEMENT

THIS AGREEMENT, executed on the respective dates indicated below, is effective as of _____, 2008, between the STATE OF HAWAII (hereafter "STATE"), by its Chairperson of the Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and Diamond Head State Monument Foundation (also referred to herein as "FOUNDATION"), by Clyde Hosokawa, Coordinator, whose address is 3118 Waialae Avenue #101, Honolulu, HI 96822.

INTRODUCTION

The STATE is the owner of Diamond Head State Monument (SM) which encompasses 511 acres, including the interior and the outer slopes of the crater. This agreement specifically addresses the following areas under the jurisdiction of the Division of State Parks and excludes areas under the jurisdiction and management of the Department of Defense (Civil Defense and National Guard) (Attachment 1):

1. Landscaped and irrigated strip on the outer *makai* slope of Diamond Head Crater and along the *mauka* side of Diamond Head Road between Poka Place (east) and Makalei Place (west) (TMK: 3-1-42: 14).
2. The Muriel Flanders Memorial Rest Stop along Diamond Head Road, including the planted area and irrigation system (TMK: 3-1-42: 14).
3. The outer eastern slope of Diamond Head Crater where the Peace Garden is located and the linear park is proposed between the property leased to Kapi'olani Community College (former Cannon Club) and 22nd Avenue (TMK: 3-1-42: 10 and 21).
4. The native garden within the Crater that occupies the former FAA site (TMK: 3-1-42: 15).
5. The developed park area in the Crater that includes the parking lot, interpretive shelter, comfort station, picnic area, grassed field, and trail to the summit (TMK: 3-1-42: 6).
6. Other visitor sites and points of interest within Diamond Head SM and discussed in the 1979 Diamond Head SM Master Plan and 2003 Master Plan Update.

This agreement establishes Diamond Head State Monument Foundation as a partner at Diamond Head State Monument for the purposes of working with the Department of Land and Natural Resources (DLNR) in the maintenance, management, interpretation, restoration, improvement, documentation, and monitoring of the natural resources and historic properties within the area.

The STATE, through the DLNR, is owner of Diamond Head State Monument and its resources and has absolute and ultimate authority over all activities including management, care, planning, development, maintenance, and restoration within the portion of the monument set aside for park purposes and public use. DLNR's Division of State Parks, hereinafter referred to as State Parks, manages Diamond Head State Monument for the DLNR. The staff of State Parks shall oversee the operations and activities of the Foundation for compliance with this agreement.

The Foundation will also work with DLNR in fulfilling the planning and compliance requirements needed to implement these management and interpretive initiatives. The Foundation will rely on the technical expertise and historical resources of the State Parks and the State Historic Preservation Division as it assumes the responsibilities of a partner. The Foundation will perform all duties and responsibilities without pay from the State of Hawai'i.

BACKGROUND

The Diamond Head State Monument Foundation was established in 2005 and received non-profit status in 2007. The organization was formed for the purposes of:

1. Preserving and protecting the natural condition of Diamond Head State Monument and its resources through sustainable management practices and projects;
2. Implementing improvements at Diamond Head State Monument in accordance with the guidelines and policies of the Diamond Head State Monument Planning Report of June 1979 and the Diamond Head Master Plan Update of July 2003, and subsequent amendments;
3. Developing educational and interpretive programs and projects for the public who visit Diamond Head State Monument;
4. Helping to ensure the safety of the public in the use of Diamond Head State Monument; and
5. Providing such other services and amenities as may be desired for the preservation and protection of Diamond Head State Monument.

KOKUA PARTNER RESPONSIBILITIES

The Foundation, as a Kokua Partner, will assist the STATE with the maintenance of designated areas within Diamond Head State Monument as follows:

1. The Foundation will coordinate all actions and activities undertaken in the execution of this Kokua Partnership agreement with State Parks.
2. The Foundation will designate a volunteer supervisor(s) who is subject to approval by State Parks. All participants must submit a completed State Parks' volunteer waiver form (Attachment 2).
3. The Foundation will submit an annual report of its activities and volunteer hours under this agreement to State Parks.
4. The Foundation will assist in maintaining the designated areas within Diamond Head State Monument by clearing vegetation, maintaining irrigation systems, and removing litter if appropriate. Unless otherwise approved, this shall be done without ground disturbance to prevent damage to the structural integrity of the historic sites and to subsurface archaeological deposits. Weed-eaters, machetes, lawnmowers, chainsaws, and other hand tools may be used. Plants should not be pulled up by the roots, as this can displace rocks and damage subsurface deposits. With State Parks approval, an herbicide with dissipation properties such as Round-up, may be used to control weeds and vegetation growth where appropriate.
5. The Foundation may undertake landscaping, watering and planting activities for the purpose of providing ground stabilization, minimizing erosion of the area, and general park appearance contingent upon approval of specific landscaping plans by State Parks.
6. All cut and gathered vegetation should be taken to a designated area. There is to be no burning within the area covered by this agreement or anywhere within the park.
7. The Foundation may sponsor volunteer projects and educational tours in addition to their regular maintenance responsibilities but State Parks must approve and shall be notified 5 working days in advance of volunteer projects and educational tours. A permit may be required for any activity involving over 25 individuals.
8. The Foundation is required to assist in coordinating volunteer efforts that may be forthcoming from other organizations or individuals. Such other groups or individuals may participate in volunteer activities without being required to become a member of the Foundation organization.

9. The Foundation will seek ongoing involvement of the local community, potentially affected private landowners, and relevant organizations.
10. The Foundation may prepare and install interpretive devices or displays, contingent upon approval of specific interpretive plans by State Parks and their submittal by State Parks to the Historic Preservation Division for the review and approval in accordance with §13-277, HAR.
11. With State Parks approval, the Foundation may retain the services of a professional archaeologist for the purposes of conducting archaeological work needed to fulfill the objectives of this agreement or to contribute to State Parks meeting the requirements of the historic preservation project review process (§6E-7 and 8, HRS; §13-275, HAR). The archaeologist shall meet the professional qualifications established by §13-281, HAR, and hold a valid permit to conduct archaeological activities in Hawai'i in accordance with §13-282, HAR.
12. The Foundation may propose amendments to this agreement to undertake other tasks. Depending on the scope of the proposed amendments, approval by the BLNR or its Chairperson may be necessary. Upon approval, the amendments will become a part of this agreement.
13. Use of the park by the Foundation shall be in accordance with all of the Rules and Regulations of the Division of State Parks (Hawai'i Administrative Rules Title 13, Chapter 146), the Conservation District (Hawai'i Administrative Rules Title 13, Chapter 5) and all other applicable rules and regulations of the Department of Land and Natural Resources as well as all other applicable rules, regulations and permit requirements of the City and County of Honolulu, State of Hawai'i and Federal Government, including requirements under HRS Chapter 343 concerning environmental and cultural review prior to any actions that would trigger this chapter.
14. All proposed maintenance, management and interpretive plans developed under this agreement shall be submitted by State Parks to the Historic Preservation Division for review in accordance with §6E-7 and 8, HRS, and all applicable administrative rules.
15. The Foundation will periodically monitor the condition and integrity of natural resources, historic properties, and their respective settings at the park. Where possible, attempts shall be made to prevent vandalism and damage. Should any damage be discovered, the Foundation shall notify State Parks as soon as possible.

16. Restoration work, as needed, may be undertaken by the Foundation, contingent on approval of specific restoration plans by State Parks and their submittal by State Parks to the Historic Preservation Division for the review and approval in accordance with §13-277, HAR.

SPECIAL CONDITIONS

The Foundation shall not:

1. Permit commercial activity, including the sale of any items or advertising of commercial products, to be conducted in conjunction with the maintenance of the site;
2. Undertake or permit fund raising activities at the park;
3. Install interpretive devices without the prior approval of State Parks;
4. Permit participants to possess, display, use or consume alcoholic beverages or illegal drugs at the park;
5. Permit any temporary or permanent residence to occur at the park;
6. Cause any significant disruption to normal park usage.
7. Undertake park improvements unless these tasks are covered in this agreement or in later amendments to each agreement.

RESPONSIBILITIES OF THE STATE

1. DLNR, in its sole discretion, will continue to manage and be responsible for the area covered by this agreement and may issue permits, including commercial permits, conduct archeological and other research and other investigative activities, install interpretive devices and regulatory signs, and implement management plans. DLNR will consult with the Foundation on these activities.
2. State Parks agrees to provide the Foundation with information relating to the park, including but not limited to archaeological and historical information, surveys conducted of archaeological sites or features, draft environmental impact assessments and statements, and plans regarding existing or proposed future uses of lands within the park.
3. The assistance of State Parks may be requested by the Foundation for large clearing and hauling projects and with herbiciding. Such requests should be coordinated between the Foundation, the O'ahu District Superintendent, and the Diamond Head Coordinator.
4. In accordance with §6E-7 and 8, HRS, and §13-275, HAR, State Parks shall be responsible for obtaining concurrence from the State Historic Preservation Division to proceed with proposals under this agreement that could have an effect on historic properties in the park

and for submitting for review and approval any reports or plans prepared in compliance with §13-275 through §13-280, HAR.

5. The Foundation will be consulted on proposed activities in the park and may assist with cultural protocol as may be needed. The Foundation may be given the opportunity to assist in work at the park done by the DLNR or approved by the DLNR.

RESTRICTIONS ON THE FOUNDATION'S ROLE

1. The Foundation may not undertake tasks, which are not specified in this agreement. This restriction is to protect the park and its resources. No matter how sincere the intent of the Foundation, a fragile site can easily be damaged. The Foundation may propose amendments to this agreement to undertake other tasks at the park. These proposed amendments must be approved by the Board of Land and Natural Resources or its designee.
2. It must be emphasized that failure to get approval of additional tasks will likely lead to the revoking of this agreement and the potential pursuit of civil or criminal penalties under sections 6E-11, 6E-11.5, or 6E-11.6, HRS, if historic properties are damaged or altered without prior approval of the department.
3. It is the role of the Foundation to help protect the natural resources, historic properties, and park facilities covered by this agreement and to help provide public access for all the State's citizens. The Foundation is not the owner of the park and cannot restrict access.

CHECKS TO INSURE PROPER PERFORMANCE

1. The Foundation and State Parks will agree on a schedule for when volunteer work will be performed. State Parks will monitor the progress of the maintenance and maintain close communication with the Foundation. The Foundation will notify State Parks if a schedule change is necessary.
2. State Parks will make a minimum of two (2) field checks per year to see that the agreement is proceeding as envisioned. If it is determined that tasks specified in the agreement are not being appropriately performed, State Parks will notify the Foundation in writing of the problem and will provide the Foundation with suggestions to correct the problem(s). The Foundation will be allowed a reasonable time to correct the problem. If the Foundation fails to correct the problem, this agreement will be subject to revocation.

CHECKS TO INSURE PROPER SAFETY

1. The Foundation agrees to perform its volunteer services in a safe and reasonable manner. It is the Foundation's responsibility to become acquainted with the procedures and tools necessary to perform these tasks and to monitor the actions of their group of volunteers.
2. Prior to commencement and periodically throughout the agreement, the Foundation will conduct safety briefings with their volunteers to ensure that they are aware of any potential safety hazards. The Foundation will have all volunteers sign liability waivers (Attachment 3) and instruct all volunteers in the proper method of performing their tasks.
3. State Parks is available to assist in providing safety presentations and written documentation on safety and proper methods of performing the work. An on-site evaluation, to discuss procedures, can be scheduled prior to the commencement of this agreement.

COORDINATION OF ACTIVITIES

The Foundation shall designate a person to coordinate with State Parks on the activities of the Foundation under this agreement. The Foundation shall be responsible for transmitting to State Parks the names of the individuals who will be performing services under this agreement. The form for notifying State Parks of regular participants is provided in Attachment 2.

INDIVIDUAL MEMBERS, VOLUNTEERS AND INVITEES OF KOKUA PARTNER

The members, volunteers and invitees of the Foundation who perform the responsibilities under this agreement will be deemed to be volunteers for purposes of chapter 90, HRS. As such, these persons when acting as volunteers are entitled to be regarded as "employees of the State" solely for the purposes of chapter 662, HRS.

TERM OF AGREEMENT

The term of this agreement is for five (5) years after its effective date. Either party may terminate this agreement after providing the other party with thirty (30) days written notice.

PUBLICITY

During the term of this agreement, the STATE may post a sign or signs that recognize the contributions of the Kokua Partner to the improvement and usefulness of the park.

COMPLIANCE WITH LAW

The Foundation shall comply with all applicable federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the Foundation's performance of this agreement.

PARK RULES

The rules of the Hawai'i state park system which are set forth in Hawaii Administrative Rules, Title 13, Subtitle 6, chapter 146, shall apply to the fullest possible extent to the implementation of this agreement.

MODIFICATION OF AGREEMENT

This agreement may be amended only in writing signed by both the STATE and the KOKUA PARTNER.

IN VIEW OF THE ABOVE, the parties execute this AGREEMENT by their signatures,
on the dates below, to be effective as of the date first above written.

STATE

(Signature)

(Print Name)

(Print Title)

(Date)

**DIAMOND HEAD STATE MONUMENT
FOUNDATION**

(Signature)

(Print Name)

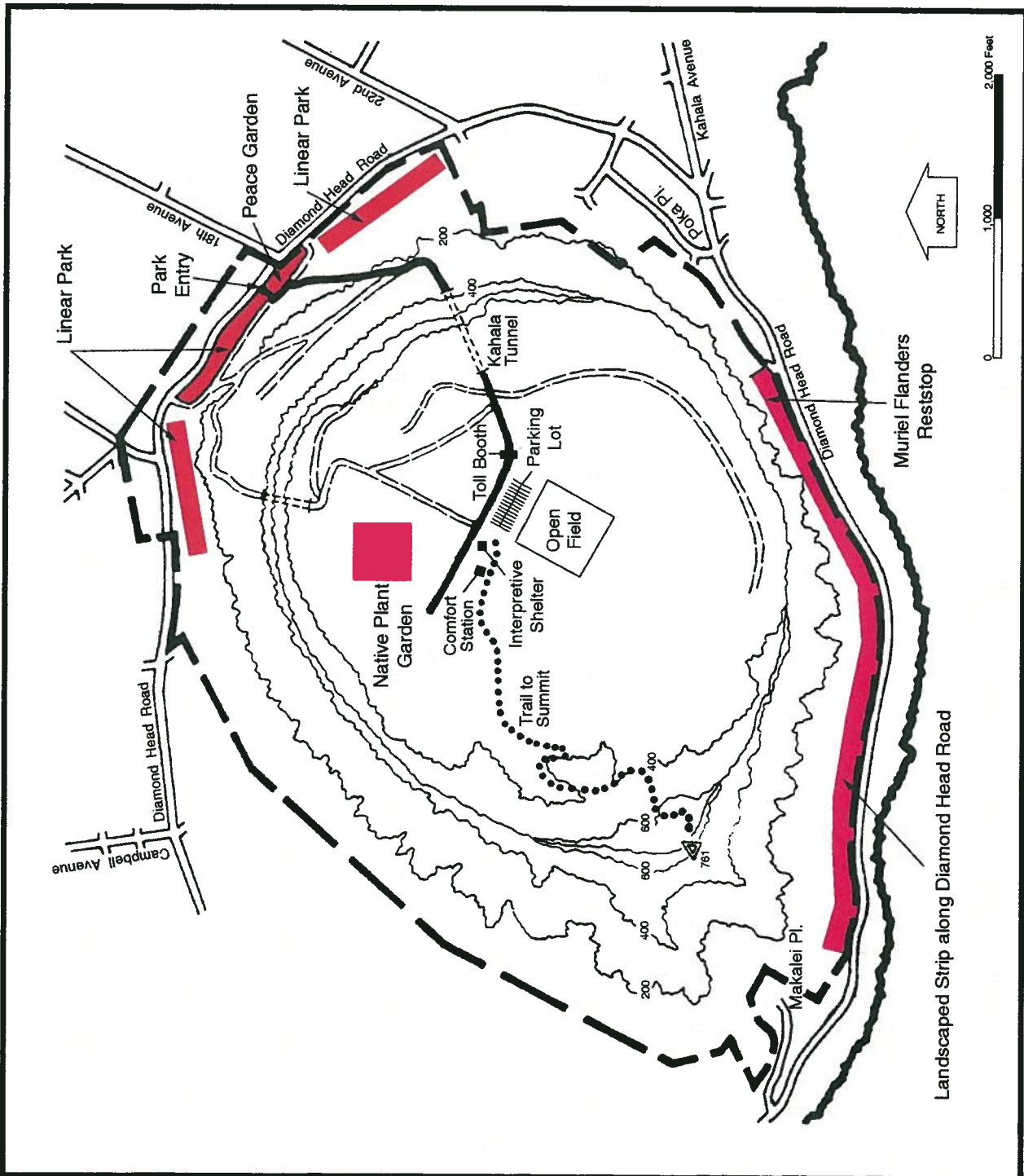
(Print Title)

(Date)

APPROVED AS TO FORM:

Deputy Attorney General

Approved by the Board of Land and Natural Resources at its meeting held on _____



ATTACHMENT 1

Map of Diamond Head State Monument with areas covered under this Kokua Partnership Agreement shown in red. The agreement also includes the public park area from the toll booth to the summit.

KOKUA PARTNERSHIP AGREEMENT FACT SHEET

Park/Site: _____

Name of Group or Organization: _____

Designated Volunteer Supervisor(s) and their contact numbers:

1. _____

2. _____

If you are a 501(C-3) non-profit, please include your ID number and date of incorporation:

ID No.: _____ Date: _____

Date of Agreement: _____

List members who are regularly involved in curator activity and titles if applicable:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

Work Schedule:

Emergency Contacts (list names, telephone, pager or cell numbers, in priority order):

1. _____

2. _____

Attachment 2

STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
AGREEMENT FOR INDIVIDUAL VOLUNTARY SERVICES

NAME: _____ PHONE: _____

ADDRESS: _____

DURATION OF AGREEMENT: START: _____ END: _____

I understand that I will not receive any compensation for the above work and that volunteers are NOT considered to be employees of the State of Hawai'i for any purpose other than tort claims, and I understand that volunteer service is not creditable for leave accrual or any other employee benefits. I also understand that either the State of Hawai'i, or I may cancel this agreement at any time by notifying the other party. I acknowledge that there are inherent risks and dangers associated with this activity and in particular have noted those risks listed below.

I understand that I will be assisting the State of Hawai'i/Department of Land and Natural Resources in taking care of Hawai'i's natural and cultural resources. I will be responsible for my equipment and supplies. I will be responsible for all aspects of the actual work project, and the safe use and proper care of hand tools including, but not limited to: Machetes, Saws, Hand Axes, Pry bars, Sled Hammers, Gardening and Painting Equipment.

I am in good physical shape, and will be self sufficient while at the work project site. I have informed the State, of any mental, physical and/or medical conditions that may increase the risk of harm to myself or others while engaging in the activities described in this document. I understand I should wear footwear with good traction and should have clothing suitable for work in both rainy, wet, and hot, dry conditions, when working in the field. I understand that the duration of the project may be less than eight hours in length, however, in the even of inclement weather the work day may be either shortened or extended at the discretion of the State. These and other activities will be taking place in potentially remote areas. I am aware that there are inherent risks and dangers associated with field work. They include but are not limited to:

• gusty winds	• paint, fuel and oil fumes
• sharp and or slippery rocks	• thorny plants/potentially dense vegetation
• stinging or biting insects and spiders	• lack of reliable communication
• portable or no bathroom facilities	• no telephones
• steep drop-offs	• work on, in or near water
• no potable (drinking) water	• wet and slippery roads
• rugged terrain	• herbicides
• sharp tools	• work in a hunting area
• lack of medical facilities	• steep and slippery trail and river crossings
• wild animals	• flash floods
• harsh weather conditions, ranging from hot and humid to wet and cold	• diseases caused by water, air, or animal vectors

I agree to hold harmless and indemnify the State of Hawai'i, its officers, agents, employees, and other volunteers from any activities as a volunteer or the activities of the State of Hawaii, its officers, agents, employees or other volunteers.

I understand I am also signing on behalf of any minor that is under my care during the duration of the volunteer activity. I further agree that I will be responsible either for personally supervising the minor or for making arrangements for the supervision of the minor by another responsible adult.

I hereby volunteer my services as described above, to assist the State of Hawai'i/ Department of Land and Natural Resources in its authorized work.

Signature of Volunteer
(or Minor's guardian)

Date

Minor's Name(s): _____

Based upon the above agreement and understanding, the State of Hawai'i agrees, while this arrangement is in effect, to accept your services as a volunteer.

Laura H. Thielen, Chairperson and Member
Board of Land and Natural Resources